

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
CENTRAL DIVISION**

CEDRIC BURTON, Register No. 173471,)	
)	
Plaintiff,)	
)	
v.)	No. 06-4029-CV-C-NKL
)	
SGT. WALTER FRIESEN, et al.,)	
)	
Defendants.)	

ORDER

On January 30, 2007, the United States Magistrate Judge recommended that plaintiff's claims against defendant John Doe Correction Officer be dismissed, pursuant to Fed. R. Civ. P. 4(m), and the motions of defendants Friezen and Moore for summary judgment be granted and plaintiff's claims dismissed. The parties were advised they could file written exceptions to the recommendation, pursuant to 28 U.S.C. § 636(b)(1)(C).

The court has conducted a de novo review of the record, including the exceptions filed by plaintiff on March 8, 2007. The issues raised in plaintiff's exceptions were adequately addressed in the report and recommendation. The court is persuaded that the recommendation of the Magistrate Judge is correct and should be adopted.

Inmates who file an appeal with the United States Court of Appeals for the Eighth Circuit are required to pay the full \$455.00 appellate filing fee, regardless of the outcome of the appeal. Henderson v. Norris, 129 F.3d 481, 484 (8th Cir. 1997). The filing of a notice of appeal is considered a consent by the inmate to allow prison officials to deduct an initial partial appellate filing fee and later installments from the prisoner's account.

IT IS, THEREFORE, ORDERED that the Magistrate Judge's Report and Recommendation of January 30, 2007, is adopted. [59] It is further ORDERED that plaintiff's claims against defendant John Doe Correction Officer are dismissed, pursuant to Fed. R. Civ. P. 4(m). It is further

ORDERED that defendants' motions for summary judgment are granted, and plaintiff's claims are dismissed. [21, 31]

/s/

NANETTE K. LAUGHREY
United States District Judge

Dated: March 23, 2007
Jefferson City, Missouri